



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

MING-CHIEH HSU
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COPY MAILED

MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of
Ming-Chieh Hsu
Application No. 09/759,783
Filed: January 16, 2001
Title: STRUCTURE OF A SCREWDRIVER TIP

ON PETITION

This is a decision on the paper titled "A Statement that the Entire Delay was Unintentional", filed September 10, 2002, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 (no fee) in light of petitioner's statement that the Office action mailed February 27, 2001 was never received. The Office apologizes for the delay in responding.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)," as appropriate. Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers Office mailed February 27, 2001. This Office action set a shortened statutory period for reply of two months. Extensions of time under 37 CFR 1.136(a) were available. No reply to the Notice having been received, the above-identified application became abandoned on April 28, 2001. A Notice of Abandonment was mailed on August 23, 2002.

With the instant "petition", petitioner states that he never received the Notice to File Corrected Application Papers mailed February 27, 2001. To withdraw the holding of abandonment due to non receipt of an Office action, a petitioner must state that the Office action was not received and must attest to the fact that a search of the file jacket and docket records indicates nonreceipt. Furthermore, a petitioner must include a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.

Alternatively, if petitioner can not meet the requirements necessary to establish non-receipt of the Notice to File Corrected Application Papers, petitioner may seek to revive the above-identified application by way of a petition under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1)

¹ See MPEP 711.03(c) (II).

the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(1) - currently \$55 for a small entity; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently \$650 for a small entity; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

As there was no fee necessary for the instant petition under 37 CFR 1.181, the \$50 submitted with the petition will be refunded to petitioner under separate cover.

Enclosed for petitioner's convenience are blank copies of Form PTO/SB/61 (unavoidable delay) and PTO/SB/64 (unintentional delay).

Also enclosed for petitioner's convenience, and in the event petitioner chooses to reply with a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), is a copy of the Notice to File Corrected Application Papers.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Office of Petitions
Attn: Cliff Congo

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, Virginia

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/61 (3 pages)
PTO/SB/64 (2 pages)
Notice to File Corrected Application Papers (1 page)